



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-261; NRC-2020-0074]

In the Matter of Duke Energy Progress, LLC; H. B. Robinson Steam Electric Plant

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) issued a confirmatory order (Order) to Duke Energy Progress, LLC (the licensee), confirming the agreement reached in an Alternative Dispute Resolution mediation session held on December 16, 2019. This Order will ensure the licensee restores compliance with NRC regulations. The Order is effective upon issuance.

DATES: The confirmatory order was issued on March 11, 2020.

ADDRESSES: Please refer to Docket ID **NRC-2020-0074** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2020-0074**. Address questions about NRC docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail: Jennifer.Borges@nrc.gov. For technical questions, contact the individuals listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209,

301-415-4737, or by e-mail to hdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Donna Jackson, Region II, telephone: 404-997-4892, e-mail: Donna.Jackson@nrc.gov; and Mark Kowal, Region II, telephone: 404-997-4523, e-mail: Mark.Kowal@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001

SUPPLEMENTARY INFORMATION:

The text of the Order is attached.

Dated at Atlanta, Georgia this 11th day of March 2020.

For the Nuclear Regulatory Commission.

Joel T. Munday,

Deputy Regional Administrator.

ATTACHED – Confirmatory Order

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
Duke Energy Progress, LLC)	Docket No. 50-261
H. B. Robinson Steam Electric Plant,)	License No. DPR-23
Unit No. 2)	
)	EA-19-025

CONFIRMATORY ORDER MODIFYING LICENSE
(EFFECTIVE UPON ISSUANCE)

I

Duke Energy Progress, LLC (Duke Energy or Licensee) is the holder of Operating License No. DPR-23 issued on July 31, 1970, by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 50 of *Title 10 of the Code of Federal Regulations* (10 CFR). The license authorizes the operation of H. B. Robinson Steam Electric Plant Unit No. 2 (facility) in accordance with conditions specified therein. The facility is located on the licensee's site in Hartsville, South Carolina.

This Confirmatory Order (CO) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on December 16, 2019.

II

On November 1, 2017, the NRC's Office of Investigations (OI) opened an investigation (OI Case No. 2-2018-004) at Duke Energy's H. B. Robinson Steam Electric Plant to determine if the assigned inside auxiliary operators (IAOs) deliberately failed to conduct fire watches and operator rounds as required by procedure and deliberately falsified records. The investigation was completed on March 18, 2019. Based on the evidence developed during its investigation, the NRC identified three apparent violations (AVs):

- 1) An apparent violation of 10 CFR § 50.48, Fire Protection, for the failure to conduct hourly fire watches in accordance with licensee procedure, AD-EG-ALL-1522, "Duties of a Fire Watch." Specifically, on multiple occasions between September 15, 2017, and September 21, 2017, four IAOs assigned the duties of an hourly fire watch in the 'A' and 'B' emergency diesel generator rooms failed to visually watch or inspect the assigned location for signs of fire. The NRC concluded that the actions of the IAOs were deliberate.
- 2) An apparent violation of Technical Specification 5.4.1.a, for failure to conduct operator rounds in accordance with procedures established through Regulatory Guide 1.33, Appendix A, including administrative procedures for Log Entries, Record Retention, and Review Procedures. Specifically, on several occasions between July 1, 2017, and October 31, 2017, four IAOs failed to conduct operator rounds in accordance with procedure AD-OP-ALL-1000, "Conduct of Operations," Revision 8. The NRC concluded that the actions of the IAOs were

deliberate.

- 3) An apparent violation of 10 CFR § 50.9(a), Completeness and Accuracy of Information, for failure to maintain complete and accurate fire watch and operator rounds logs. Specifically, on several occasions, between July 1, 2017, and October 31, 2017, as described in the two previous AVs, IAOs failed to enter an area to conduct operator rounds or fire watches yet signed off as completing them. The NRC concluded that the actions of the IAOs were deliberate.

By letter dated September 19, 2019 (NRC Inspection Report (IR) 05000261/2019012, Agency-wide Documents Access and Management System (ADAMS) accession number ML19262H275), the NRC notified Duke Energy of the results of the investigation, including the identification of three AVs that were being considered for escalated enforcement, with an opportunity to: (1) provide a response in writing, (2) attend a predecisional enforcement conference or (3) to participate in an ADR mediation session in an effort to resolve the issue. On September 30, 2019, Duke contacted Cornell University Scheinman Institute on Conflict Resolution to request the use of NRC's ADR process.

III

During the ADR session, Duke Energy and the NRC reached a preliminary settlement agreement. The elements of the agreement include the following:

1. Duke Energy acknowledged that the three violations occurred, as documented in IR No. 05000261/2019012, issued on September 19, 2019, and as described in Section II of this Confirmatory Order, were violations of regulatory requirements, and they occurred due to the deliberate misconduct of IAOs.
2. Based on a review of the incident, Duke Energy completed corrective actions and enhancements to address the violations, including but not limited to the following:
 - A. Communications:
 - i. Each Shift Manager completed a review of Crew Learnings with their shift to present the expectations for performing fire watch logs. Completed October 6, 2017.
 - ii. Conducted Operating Experience discussion with Operations, Maintenance and Major Projects personnel responsible for fire watches to emphasize the importance of proper performance and documentation of these activities, including the significance of one's signature. Completed July 26, 2018.
 - iii. Conducted Operating Experience discussion with Operations personnel responsible for operator rounds to emphasize the importance of proper performance and documentation of these activities, including the significance of one's signature. Completed June 17, 2018.
 - B. Training:
 - i. Operations personnel completed a Read and Sign training package, "Duties of a Fire Watch." As a follow-up, two scenarios and a five-question quiz were developed and given during training segment 17-4 to evaluate the learning

that took place during the Read and Sign training package.

C. Procedures:

- i. Issued Standing Instruction 17-011, Duties of a Fire Watch, to establish the expectation that the Fire Watch shall deliver the completed documentation to the Control Room Supervisor at the conclusion of every shift. Issued September 21, 2017, expired October 25, 2017.
- ii. Issued Standing Instruction 17-022, Challenges Meeting the Requirements of AD-EG-ALL-1522, to establish a template for Observation and Oversight of fire watches. Shift supervisors were to observe fire watch pre-job briefs, the first performance of the watch and at least once as a random observation. Issued November 22, 2017, expired January 31, 2018.
- iii. Revised AD-EG-ALL-1522, Duties of a Fire Watch, to clarify how fire watch rounds are performed, as well as the oversight associated with them. Most recent revision issued November 21, 2019.
- iv. Issued AD-OP-ALL-0109, Operator Rounds, to include instructions for an on-duty senior reactor operator (SRO) to conduct a post round debrief and further revised the procedure to add guidance for properly recording the operator of record who performed rounds and approval of rounds by the on-duty SRO. Most recent revision issued November 14, 2019.

3. Based on Duke Energy's review of the incident and NRC's concerns with respect to precluding recurrence of the violations, Duke Energy agrees to implement the following corrective actions and enhancements for the Operating Nuclear Fleet, unless otherwise specified. For the purposes of this agreement, the term "Operating

Nuclear Fleet,” consists of the following Duke Energy plants: H. B. Robinson Steam Electric Plant Unit 2; Brunswick Steam Electric Plant Units 1 and 2; Catawba Nuclear Station Units 1 and 2; McGuire Nuclear Station Units 1 and 2; Oconee Nuclear Station Units 1, 2, and 3; and Shearon Harris Nuclear Power Plant Unit 1.

A. Communications:

- i. Within one month of the date of the Confirmatory Order, and again during calendar year 2021, the Duke Energy Chief Nuclear Officer (CNO) will issue an internal communication via email to Duke Energy employees and contingent workers who are onsite for greater than six (6) months consecutively, assigned to the Operating Nuclear Fleet. The communication will describe the circumstances that gave rise to this Confirmatory Order. In addition, the communication will emphasize 1) the importance of procedural compliance, 2) the importance of ensuring the completeness and accuracy of plant documents as required by 10 CFR 50.9, and 3) the requirements of 10 CFR 50.5 and the consequences associated with the willful non-compliance with procedural requirements.
- ii. Duke Energy also agrees to conduct Operations Shift briefings at all Duke Energy Operating Nuclear Fleet plants, discussing the contents of these communications.
- iii. The contents of the CNO’s communication shall be made available for NRC review.

B. Training

- i. Within six months of the date of the Confirmatory Order, Duke Energy will

create a one-time training highlighting the meaning of a nuclear worker's signature, and the regulatory and legal significance of a signature. Duke Energy will assign this training module to Auxiliary Operators at each of its nuclear power plants in the Operating Nuclear Fleet to be completed within one year of the date of the Confirmatory Order.

- ii. Within one year of the date of the Confirmatory Order, Duke Energy will incorporate training highlighting the meaning of a nuclear worker's signature, and the regulatory and legal significance of a signature, into the Auxiliary Operators initial training module for Auxiliary Operators assigned to plants in the Operating Nuclear Fleet.
- iii. Within six months of the date of the Confirmatory Order, Duke Energy will provide training to those Duke Energy Managers and Supervisors, who have oversight of Duke Energy employees assigned to the Operating Nuclear Fleet, addressing compliance with 10 CFR 50.5 and 10 CFR 50.9.
- iv. Within six months of the date of the Confirmatory Order, Duke Energy will revise training for Duke Energy employees and contractors with unescorted access, to be administered per TTC-1636-N (for Duke Energy employees) and TTC-2008-N (for Contractors with unescorted access), addressing compliance with 10 CFR 50.5 and 50.9. The training shall also:
 - a. Emphasize the importance of complete and accurate information for all required records, correspondence, and communications with the NRC and its staff.
 - b. Emphasize individual accountability and clearly express that willful or deliberate failures to comply with regulations, orders, or license requirements could result in significant individual enforcement action by

the NRC.

- c. Reinforce that if any individual recognizes a non-compliance, they will immediately report the observation of the non-compliance to management.
- v. Documentation of the content of the training material shall be maintained and made available for NRC review. Completion records shall also be maintained and made available for NRC review.

C. Oversight/Observations

- i. Within six months of the date of the Confirmatory Order, Duke Energy will revise and implement fleet-wide procedures, applicable to the Operating Nuclear Fleet, to require periodic reviews (i.e. at least once per quarter) of a sample of verifiable completed operator rounds performed by Duke Energy personnel at Duke Energy's Operating Nuclear Fleet. The purpose of these reviews is to determine whether workers completed the operator rounds in a manner consistent with applicable procedures. Management will disclose the results of these reviews in a manner that is consistent with workers' privacy and applicable Duke Energy's disciplinary and personnel procedures, processes, and practices. However, if a condition adverse to quality is discovered during these reviews, the issue will be placed into the licensee's Corrective Action Program and addressed accordingly. A minimum of seven (7) days will be reviewed every quarter. Documentation related to each review and its results shall be maintained for a minimum of two years and made available for NRC review.
- ii. Within six months of the date of the Confirmatory Order, Duke Energy will

revise and implement fleet-wide procedures, applicable to the Operating Nuclear Fleet, to require periodic reviews (i.e. at least once per quarter) of a sample of verifiable completed fire watch rounds performed by Duke Energy or contractor personnel at Duke Energy's Operating Nuclear Fleet. The purpose of these reviews is to determine whether workers completed the fire watch rounds in a manner consistent with applicable procedures.

Management will disclose the results of these reviews in a manner that is consistent with workers' privacy and applicable Duke Energy's disciplinary and personnel procedures, processes, and practices. However, if a condition adverse to quality is discovered during these reviews, the issue will be placed into the licensee's Corrective Action Program and addressed accordingly. A minimum of seven (7) days will be reviewed every quarter. Documentation related to each review and its results shall be maintained for a minimum of two years and made available for NRC review.

- iii. Within six months of the date of the Confirmatory Order, Duke Energy will implement a process at H. B. Robinson Steam Electric Plant and Brunswick Steam Electric Plant to complete three documented observations of operator round activities for each crew per quarter, performed by Operations Department supervision (a current or former SRO). The observation will focus on the importance of completeness and accuracy of rounds documentation and the importance of operator rounds and how these rounds support safe plant operations by helping to determine whether the inspected equipment is operating safely and in accordance with its design. All such observations will include a discussion between Operations Department supervision and the Auxiliary Operator conducting the round. These

observations will be performed for one year. Documentation related to the observations and results shall be maintained and made available for NRC review.

iv. Within six months of the date of the Confirmatory Order, Duke Energy will implement a process requiring H. B. Robinson Steam Electric Plant and Brunswick Steam Electric Plant complete three documented observations of fire watch activities (if available) each quarter by site supervision or Fire Marshall. The observation will focus on the importance of completeness and accuracy of documentation and the importance of fire watches. All such observations will include a discussion between the observer and the individual performing the fire watch. These observations will be performed for one year. Documentation related to the observations and results shall be maintained and made available for NRC review.

4. Within one year of the completion of the last corrective action identified in the Confirmatory Order (other than this provision), Duke Energy will perform an effectiveness review of the corrective actions. Before performing this effectiveness review, Duke Energy will establish the specific criteria it will use in the review.
5. Upon completion of all the actions required of Duke Energy in the Confirmatory Order, Duke Energy will notify the NRC Region II Regional Administrator.
6. For the NRC's future civil penalty assessment purposes as discussed in the NRC Enforcement Policy, the NRC agrees that the issuance of this Confirmatory Order will not be considered as escalated enforcement.

7. The NRC considers the corrective actions and enhancements discussed in paragraphs III.2 and III.3 above to be appropriately prompt and comprehensive to address the causes which gave rise to the incident discussed in the NRC's IR dated September 19, 2019.
8. The NRC and Duke Energy agree that the above elements will be incorporated into a Confirmatory Order.
9. In consideration of the commitments delineated above, the NRC agrees not to cite the violations and agrees not to propose a civil penalty for all matters discussed in the NRC's IR to Duke Energy dated September 19, 2019 (EA-19-025).
10. This agreement is binding upon successors and assigns of Duke Energy.

On March 3, 2020, Duke Energy consented to issuing this Confirmatory Order with the commitments, as described in Section V below. Duke Energy further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that it has waived its right to a hearing.

IV

I find that Duke Energy's actions completed, as described in Section III above, combined with the commitments as set forth in Section V are acceptable and necessary,

and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Duke Energy's commitments be confirmed by this Confirmatory Order. Based on the above and Duke Energy's consent, this Confirmatory Order is effective upon issuance.

V

Accordingly, pursuant to Sections 104b, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, IT IS HEREBY ORDERED, EFFECTIVE UPON ISSUANCE, THAT LICENSE NO. DPR-23 IS MODIFIED AS FOLLOWS:

1. Duke Energy agrees to implement the following corrective actions and enhancements for the Operating Nuclear Fleet, unless otherwise specified. The term "Operating Nuclear Fleet," consists of the following Duke Energy plants: H. B. Robinson Steam Electric Plant Unit 2; Brunswick Steam Electric Plant Units 1 and 2; Catawba Nuclear Station Units 1 and 2; McGuire Nuclear Station Units 1 and 2; Oconee Nuclear Station Units 1, 2, and 3; and Shearon Harris Nuclear Power Plant Unit 1:

A. Communications:

- i. Within one month of the date of the Confirmatory Order, and again during calendar year 2021, the Duke Energy Chief Nuclear Officer (CNO) will issue an internal communication via email to Duke Energy employees and

contingent workers who are onsite for greater than six (6) months consecutively, assigned to the Operating Nuclear Fleet. The communication will describe the circumstances that gave rise to this Confirmatory Order. In addition, the communication will emphasize 1) the importance of procedural compliance, 2) the importance of ensuring the completeness and accuracy of plant documents as required by 10 CFR 50.9, and 3) the requirements of 10 CFR 50.5 and the consequences associated with the willful non-compliance with procedural requirements.

- ii. Duke Energy also agrees to conduct Operations Shift briefings at all Duke Energy Operating Nuclear Fleet plants, discussing the contents of these communications.
- iii. The contents of the CNO's communication shall be made available for NRC review.

B. Training

- i. Within six months of the date of the Confirmatory Order, Duke Energy will create a one-time training highlighting the meaning of a nuclear worker's signature, and the regulatory and legal significance of a signature. Duke Energy will assign this training module to Auxiliary Operators at each of its nuclear power plants in the Operating Nuclear Fleet to be completed within one year of the date of the Confirmatory Order.
- ii. Within one year of the date of the Confirmatory Order, Duke Energy will incorporate training highlighting the meaning of a nuclear worker's signature, and the regulatory and legal significance of a signature, into the Auxiliary Operators initial training module for Auxiliary Operators assigned

to plants in the Operating Nuclear Fleet.

- iii. Within six months of the date of the Confirmatory Order, Duke Energy will provide training to those Duke Energy Managers and Supervisors, who have oversight of Duke Energy employees assigned to the Operating Nuclear Fleet, addressing compliance with 10 CFR 50.5 and 10 CFR 50.9.
- iv. Within six months of the date of the Confirmatory Order, Duke Energy will revise training for Duke Energy employees and contractors with unescorted access, to be administered per TTC-1636-N (for Duke Energy employees) and TTC-2008-N (for Contractors with unescorted access), addressing compliance with 10 CFR 50.5 and 50.9. The training shall also:
 - a. Emphasize the importance of complete and accurate information for all required records, correspondence, and communications with the NRC and its staff.
 - b. Emphasize individual accountability and clearly express that willful or deliberate failures to comply with regulations, orders, or license requirements could result in significant individual enforcement action by the NRC.
 - c. Reinforce that if any individual recognizes a non-compliance, they will immediately report the observation of the non-compliance to management.
- v. Documentation of the content of the training material shall be maintained and made available for NRC review. Completion records shall also be maintained and made available for NRC review.

C. Oversight/Observations

- i. Within six months of the date of the Confirmatory Order, Duke Energy will revise and implement fleet-wide procedures, applicable to the Operating Nuclear Fleet, to require periodic reviews (i.e. at least once per quarter) of a sample of verifiable completed operator rounds performed by Duke Energy personnel at Duke Energy's Operating Nuclear Fleet. The purpose of these reviews is to determine whether workers completed the operator rounds in a manner consistent with applicable procedures. Management will disclose the results of these reviews in a manner that is consistent with workers' privacy and applicable Duke Energy's disciplinary and personnel procedures, processes, and practices. However, if a condition adverse to quality is discovered during these reviews, the issue will be placed into the licensee's Corrective Action Program and addressed accordingly. A minimum of seven (7) days will be reviewed every quarter. Documentation related to each review and its results shall be maintained for a minimum of two years and made available for NRC review.
- ii. Within six months of the date of the Confirmatory Order, Duke Energy will revise and implement fleet-wide procedures, applicable to the Operating Nuclear Fleet, to require periodic reviews (i.e. at least once per quarter) of a sample of verifiable completed fire watch rounds performed by Duke Energy or contractor personnel at Duke Energy's Operating Nuclear Fleet. The purpose of these reviews is to determine whether workers completed the fire watch rounds in a manner consistent with applicable procedures. Management will disclose the results of these reviews in a manner that is consistent with workers' privacy and applicable Duke Energy's disciplinary

and personnel procedures, processes, and practices. However, if a condition adverse to quality is discovered during these reviews, the issue will be placed into the licensee's Corrective Action Program and addressed accordingly. A minimum of seven (7) days will be reviewed every quarter. Documentation related to each review and its results shall be maintained for a minimum of two years and made available for NRC review.

iii. Within six months of the date of the Confirmatory Order, Duke Energy will implement a process at H. B. Robinson Steam Electric Plant and Brunswick Steam Electric Plant to complete three documented observations of operator round activities for each crew per quarter, performed by Operations Department supervision (a current or former SRO). The observation will focus on the importance of completeness and accuracy of rounds documentation and the importance of operator rounds and how these rounds support safe plant operations by helping to determine whether the inspected equipment is operating safely and in accordance with its design. All such observations will include a discussion between Operations Department supervision and the Auxiliary Operator conducting the round. These observations will be performed for one year. Documentation related to the observations and results shall be maintained and made available for NRC review.

iv. Within six months of the date of the Confirmatory Order, Duke Energy will implement a process requiring H. B. Robinson Steam Electric Plant and Brunswick Steam Electric Plant complete three documented observations of fire watch activities (if available) each quarter by site supervision or Fire Marshall. The observation will focus on the importance of completeness and

accuracy of documentation and the importance of fire watches. All such observations will include a discussion between the observer and the individual performing the fire watch. These observations will be performed for one year. Documentation related to the observations and results shall be maintained and made available for NRC review.

2. Within one year of the completion of the last corrective action identified in the Confirmatory Order (other than this provision), Duke Energy will perform an effectiveness review of the corrective actions. Before performing this effectiveness review, Duke Energy will establish the specific criteria it will use in the review.
3. Upon completion of all the actions required of Duke Energy in the Confirmatory Order, Duke Energy will notify the NRC Region II Regional Administrator.
4. For the NRC's future civil penalty assessment purposes as discussed in the NRC Enforcement Policy, the NRC agrees that the issuance of this Confirmatory Order will not be considered as escalated enforcement.
5. In consideration of the commitments delineated above, the NRC agrees not to cite the violations and agrees not to propose a civil penalty for all matters discussed in the NRC's IR to Duke Energy dated September 19, 2019 (EA-19-025).
6. The Regional Administrator, NRC Region II, may relax or rescind, in writing, any of the above conditions upon a showing by Duke Energy of good cause.

7. This agreement is binding upon successors and assigns of Duke Energy.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than Duke Energy, may request a hearing within thirty (30) calendar days of the date of issuance of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene (hereinafter "petition"), and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital

identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before

adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's Public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing

if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an Order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "Cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the *Federal Register* and served on the parties to the hearing.

If a person (other than Duke Energy) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission

Joel T. Munday
Deputy Regional Administrator
NRC Region II

Dated this 11th day of March 2020

[FR Doc. 2020-05283 Filed: 3/13/2020 8:45 am; Publication Date: 3/16/2020]